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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4697 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHANKERJI AMBJI DABHI

Versus

THE EXECUTIVE ENGINEER,(O.& M)

Appearance:

1. Special Civil Application No. 4697 of 2001

MR MEHUL SHARAD SHAH for Petitioner No. 1

MS. KATHA GAJJAR, AGP, for Respondent No. 1

MR UA TRIVEDI for Respondent No. 2

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 9/08/2001

C.A.V. JUDGEMENT

1. Shankerji Ambuji Dabhi-petitioner has filed this petition praying for issuance of a writ of mandamus or any other appropriate writ, order or direction, quashing

and setting aside the application submitted by Sarpanch dated 10.1.2001 for shifting electric connection bearing Service No. I.210 of the old bore-well to the new bore-well erected at village Ghumasana.

2. The facts giving rise to this petition are as under:

2.1 the petitioner is a resident of village Ghumasana and he has filed this petition in a representative capacity on behalf of the residents of the village. It has been submitted in the petition that in the village Ghumasana about 6000 to 7000 people are residing. It has been stated that under the supervision of the Water Supply and Sewerage Board, Ghumasans Gram Panchayat has erected a new bore-well in the village with a view to providing more water to the village people. The panchayat unanimously passed a resolution dated 31.7.2000 to obtain electric connection of 52 H.P. at the new bore well. The panchayat also sought for estimate of the new electric connection and the Gujarat Electricity Board, Kalol has sent an estimate of Rs. 79,694/- for the same on 27.11.2000 and asked the Panchayat to pay the said amount of estimate before 26.12.2001. However, the panchayat did not pay the amount of estimate to the Gujarat Electricity Board.

2.2 It appears that there was already existing bore-well for which the Gujarat Electricity Board had already given electric connection. The petitioner had come to know that thereafter either the Sarpanch or some other persons in the name of Sarpanch, submitted an application dated 10.1.2001 requesting the Gujarat Electricity Board to shift the electric connection of 30 H.P. bearing Service No. I 210 which is provided to the old existing bore well which is operative, to the new bore-well.

2.3 The present petition has been filed for quashing and setting aside the decision of the panchayat for shifting electric connection from old bore-well to new bore-well.

3. When the petition was filed this court has issued notice returnable on 2.7.2001. Interim relief in terms of para 13(B) till 13th July, 2001. D.S. Permitted.

3.1 When the matter was placed for hearing Mr. Mehul S. Shah, learned counsel for the petitioner has made an oral request that the Water Supply and Sewerage Board may be joined as a party respondent. I allowed him to add

Water Supply and Sewerage Board as party respondent No. 3. He has made submissions on the basis of the petition that the interim relief which was granted earlier may be confirmed and the petition be allowed.

3.2 On behalf of respondent No. 2 Mr. U.A. Trivedi, learned counsel, appeared. He strongly objected to the matter to be admitted and interim relief to be continued. One Chhaganbhai Maganbhai Makwana on behalf of respondent No. 2 has filed an affidavit dated 25.7.2001. In the said affidavit it has been stated that formerly there was one Sarpanch lady, Smt. Kamlaben Meruji Dabhi who was removed from the post of Sarpanch by the District Development Officer, District Panchayat, Mehsana by order dated 31.5.2001 under Section 57(1) of the Gujarat Panchayats Act, 1993 and the present petition has been sponsored by ex-Sarpanch of the Gram Panchayat.

4. It has been stated that the old bore well was existing for 20 to 22 years and there is not enough water and therefore the panchayat is acting in the interest of all the village people whereas the present petition is filed at the instance of Ex-Sarpanch of the village with a view to create hurdles in the efforts of the Gram Panchayat to provide better water facilities to the whole village from the newly erected Tube Well.

5. It is stated that the Tube Well from where electric connection is sought to be transferred at the newly erected Tube Well from the old Tube Well as the new bore-well has no electric connection in this behalf. It is no doubt true that for new bore well electric connection was sought but necessary procedural requirements were not followed by the original Sarpanch and therefore for new bore well, the panchayat has decided to file an application to shift electric connection from the old bore well to new bore well. It has also been stated that the aforesaid petition is mala fide because originally the old Sarpanch filed a suit restraining to withhold the electric connection at new Tube Well when the said suit was filed on 8.6.1961 though the Sarpanch was removed from office on 31.7.2001. In that Exh. 5 was filed praying injunction to Gujarat Electricity Board not to disconnect electric connection to transfer it to any other place. The learned Civil Judge passed order on 17.7.2000 rejecting the application and vacated the order of status quo which was granted while issuing notice. Since that order is passed, the present petition has been filed.

6. I have considered the rival submissions made by

the learned counsel for the petitioner as well as the respondent. I have also considered the contentions raised by the respondent in the affidavit in reply particularly why interim relief should not be vacated in this behalf. In my view, by giving the following directions the matter can be finally disposed of.

(1) In view of the oral application made by the learned counsel for the petitioner, Water Supply and Sewerage Board may be joined as party respondent No. 3.

(2) I further direct respondent No. 1 Gujarat Electricity Board to entertain the application filed by Sarpanch of the panchayat dated 10.1.2001 for shifting of electric connection bearing Service No. I-210 of old bore well to new bore well permitted at village Ghumasana Taluka.

(3) The petitioner or his representative can make application for fresh electric connection for old bore well and if the same is made, respondent No. 1 Board will consider the same as expeditiously as possible and in accordance with law.

(4) The Water Supply & Sewerage Board will render necessary assistance to the petitioner as well as respondent No. 2 for obtaining electric connection for the new Tube-Well and and the panchayat will deposit necessary amount in connection with obtaining fresh electric connection.

(5) If in future the Gujarat Electricity Board grants fresh electric connection to the new Tube Well then the existing connection of Tube Well may be transferred to the old Tube Well.

7. With the above observations, the petition is rejected. No order as to costs.

(K.M. MEHTA, J)

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